

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF PENNSYLVANIA

3 UNITED STATES OF AMERICA) 2:14-cr-00036-JS-1
4) Philadelphia, PA
5 Plaintiff,)
6)
7 vs.)
8)
9 MATTHEW KRAPF,) October 27, 2014
10 Defendant.) 11:05 a.m.

11 TRANSCRIPT OF GUILTY PLEA HEARING
12 BEFORE THE HONORABLE JUAN R. SANCHEZ
13 UNITED STATES DISTRICT COURT JUDGE

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2 THE COURT: This is the matter of United
3 States of America versus Matthew Krapf, Criminal
4 Number 14-469.

5 The court recognizes the Assistant
6 United States Attorney Michelle Rotella.

7 MS. ROTELLA: Good morning, Your Honor.

8 THE COURT: Good morning.

9 And seated next to Attorney Rotella is
10 special agent, Emily Evans.

11 SPECIAL AGENT EVANS: Good morning, Your
12 Honor.

13 THE COURT: Good morning.

14 The court also recognizes defense
15 counsel, Mr. Martin Isenberg.

16 MR. ISENBERG: Nice to see Your Honor
17 this morning.

18 THE COURT: Nice to --

19 MR. ISENBERG: Good morning.

20 THE COURT: Nice to see you as well.

21 And next to Mr. Isenberg is the
22 defendant, Mr. Krapf.

23 THE DEFENDANT: Good morning, Your
24 Honor.

25 THE COURT: I think that includes

1 everybody who needs to be in front of me.

2 It's going to be a little while,
3 Mr. Krapf.

4 So if I understand it correctly, back on
5 January 23, 2014, this defendant, Mr. Matthew Krapf,
6 was indicted with ten counts of using or inducing
7 a child to produce child pornography images and
8 aiding and abetting, in violation of Title 18,
9 Section 2251(a)(1) [sic] and Section 2251(e) and
10 Title 2 [sic], Section 2.

11 He was also charged with ten counts of
12 use of interstate commerce facility to entice a
13 minor to engage in sexual conduct, in violation of
14 Title 18, Section 22 -- 24(a) -- I'm sorry -- 22(b),
15 and three counts of distribution of child
16 pornography, in violation of Title 18, Section
17 2252(a)(2), and one count of possession of child
18 pornography, in violation of Title 18, Section
19 2252(a)(4)(B).

20 It is my understanding that this
21 defendant intends to plead guilty to the indictment
22 charging him with the ten counts, Counts 1 through 10
23 for a violation of Title 18, Section 2251(a) and
24 2251(e) and Section 2; also with Counts 11 through
25 20, in violation of Title 18, Section 2422(b); and

1 Counts 21 through 23, in violation of Title 18,
2 Section 2252(a)(2); and, lastly, with Count 24, in
3 violation of Title 18, Section 2252(a)(4)(B), all
4 arising from defendant's sexual exploitation of five
5 minor teenage boys.

6 Do I understand that correctly, Attorney
7 Rotella?

8 MS. ROTELLA: Yes, Your Honor.

9 THE COURT: Is that --

10 MR. ISENBERG: Yes, Your Honor.

11 THE COURT: All right. Very well.

12 And I believe that you have the
13 government's change of plea as well as the guilty
14 plea agreement and the acknowledgement of rights.

15 MR. ISENBERG: Thank you, Judge.

16 THE COURT: You have that in front of
17 you, right?

18 MR. ISENBERG: Oh, I do, Judge. I think
19 Ms. Rotella has the original, Judge.

20 THE COURT: All right.

21 MR. ISENBERG: And we have a copy in
22 front of us.

23 THE COURT: Very well.

24 Attorney Rotella, would you give
25 defendant the copy of the original guilty plea, the

1 government's change of plea memorandum, as well as
2 the Acknowledge of Rights, because I'm going to have
3 a conversation with him on the record to make sure
4 that he understands what he's doing here today.

5 MR. ISENBERG: And, Judge, for the
6 record, Ms. Rotella did give that to me, and I'll
7 have it in front of Mr. Krapf for his review.

8 THE COURT: Okay.

9 MR. ISENBERG: Thank you, Judge.

10 THE COURT: So I'm going to have
11 Mr. Krapf sworn in. So I'm going to ask my deputy,
12 Mr. Patrick Kelly, to swear him in.

13 And then I'll have some questions,
14 Mr. Krapf.

15 COURTROOM DEPUTY: Please raise your
16 right hand.

17 - - -

18 (DEFENDANT, SWORN.)

19 - - -

20 COURTROOM DEPUTY: Please state your
21 full name and spell your last name for the record,
22 please?

23 THE DEFENDANT: It's Matthew Donald
24 Krapf, spelled K-r-a-p, as in Peter, F, as in Frank.

25 COURTROOM DEPUTY: Thank you.

1 THE COURT: All right. You may be
2 seated, Mr. Krapf. It's going to be about 40 -- 40
3 minutes for us to conclude this proceeding.

4 And you know why you're here?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: You understand that before I
7 allow you to plead guilty to the indictment -- the
8 counts in the indictment, I need to be satisfied
9 that, number one, you're competent; number two, you
10 understand the nature of charges pending against
11 you -- that you understand the charges, the elements
12 of the offense, the maximum penalties?

13 And I also need to be -- to be satisfied
14 that independent of your decision to plead guilty,
15 the government has enough evidence to support the
16 charges. You understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: So you were just sworn. Do
19 you understand your obligation to answer all my
20 questions truthfully and completely?

21 THE DEFENDANT: Absolutely, Your Honor.

22 THE COURT: You know if you lie to me in
23 any shape, way, or form your lies could be the basis
24 of a prosecution for perjury or false statements?
25 You understand that?

1 THE DEFENDANT: I do, Your Honor.

2 THE COURT: If at any point in time you
3 do not understand my questions, just let me know, and
4 I'll try to rephrase them.

5 THE DEFENDANT: I will, Your Honor.

6 THE COURT: And if at any time before
7 you answer a question you need to speak to Attorney
8 Isenberg, just let me know, and I will give you that
9 opportunity.

10 THE DEFENDANT: I appreciate that, Your
11 Honor.

12 THE COURT: Before I -- I take your
13 guilty plea, I need to find out some background
14 information about you. And then what I would like to
15 do is discuss the three documents with you that the
16 government and your lawyer have presented me. Okay?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: By way of background, your
19 full legal name is Matthew Krapf, Krapf with an F,
20 right?

21 THE DEFENDANT: Yes, sir. Yes, Your
22 Honor.

23 THE COURT: And have you used any other
24 names?

25 THE DEFENDANT: I have not.

1 THE COURT: How old are you today?

2 THE DEFENDANT: I am 44 today -- well, I
3 am 44 as we speak.

4 THE COURT: 44 years of age?

5 THE DEFENDANT: Yes.

6 THE COURT: And could you tell me a
7 little bit about -- you know, how far did you go in
8 school?

9 THE DEFENDANT: I went all the way up
10 but for a few credits with my bachelor's degree from
11 Syracuse University.

12 THE COURT: You never -- you never got
13 your B.A. from Syracuse University?

14 THE DEFENDANT: I didn't -- I didn't
15 conclude the work. There was some snafus with some
16 lost notebooks and things like that, and I had
17 already moved to -- to take a job and career in
18 Florida.

19 And then years and then decades
20 followed, where the lost materials couldn't be made
21 up, and I would have to move back to New York to --
22 this was pre-Internet days, Your Honor --

23 THE COURT: All right.

24 THE DEFENDANT: -- to -- to have to --
25 to have retaken those classes. And I -- I did not at

1 the -- in the -- in that era.

2 About -- oh, geez, about three -- about
3 three -- two or three years ago, I did actually reach
4 out to Syracuse to begin proceedings to try to --
5 thanks to the Internet and other technical means --
6 to -- to resume and conclude my degree --

7 THE COURT: Okay.

8 THE DEFENDANT: -- course of study.

9 THE COURT: So --

10 THE DEFENDANT: But that didn't come to
11 fruition.

12 THE COURT: So let -- let's -- let's pin
13 it down a little bit. When did you last attend
14 Syracuse University?

15 THE DEFENDANT: 1993.

16 THE COURT: 1993? And in -- in 1993,
17 you had completed how many semesters, or how far were
18 you along?

19 THE DEFENDANT: All but, I think, 11
20 credit hours. So one -- less -- less than one
21 semester's worth of work.

22 THE COURT: So you needed one semester
23 to get your Bachelor's of Arts degree?

24 THE DEFENDANT: Yes.

25 THE COURT: That was in '93.

1 Fast-forward. Today -- about three years ago, you
2 tried to make a connection with the university to try
3 to complete your -- your B.A.?

4 THE DEFENDANT: Yeah. It was -- well,
5 there -- there was a -- a point about ten years ago
6 where I had initiated it and found that -- that it
7 was possible, of course, but cumbersome, and -- and I
8 wasn't able to avail myself of that opportunity -- or
9 at least, at that time.

10 And so, then, about two years ago -- it
11 might be bordering on three -- I did reach out again,
12 and, you know, they gave me to -- to understand
13 it's -- while much of the faculty and even the
14 curriculum has evolved and/or changed, that there's
15 ways that we can move forward and -- and -- and
16 probably achieve an -- an equivalent, if not exactly
17 the same degree --

18 THE COURT: All right.

19 THE DEFENDANT: -- which would have been
20 a B.A. in human resource management.

21 THE COURT: Bachelor's of Arts in human
22 resource management? All right.

23 And that was in -- in '93, when you lost
24 contact --

25 THE DEFENDANT: Initially --

1 THE COURT: -- or had last contact with
2 school, right?

3 THE DEFENDANT: Yeah, right.

4 THE COURT: From '93, you -- you
5 indicated you did not complete your studies because
6 you went on to work. Tell me a little bit about what
7 you did following your leaving school. What kind of
8 work?

9 THE DEFENDANT: I -- I resumed a job
10 that I started as a college intern down in Walt
11 Disney World in Orlando. Having been there as an
12 intern, I had entree to, you know, employment, and --
13 and I was already an employee. And I went down there
14 and began as an hourly employee with the intent
15 towards working my way into their salary management
16 program.

17 But for three to four years -- I guess
18 three years -- I did just that, working a number of
19 hourly jobs as tour guides, VIP tour guides,
20 trainers, began my longstanding career of -- of
21 training and teaching.

22 THE COURT: Where? At -- in Walt
23 Disney?

24 THE DEFENDANT: There and then, also,
25 later on -- but that was the first place that I -- I

1 was a -- a trainer, yeah --

2 THE COURT: Okay. For --

3 THE DEFENDANT: -- trained as a trainer
4 and then --

5 THE COURT: For -- for how long did you
6 work there as a trainer?

7 THE DEFENDANT: Year and a half to two
8 years.

9 THE COURT: And then what have you been
10 doing since that time?

11 THE DEFENDANT: After some downturn in
12 the economy and there was a freeze on hiring into the
13 management -- the salaried management program and at
14 the risk of -- of stagnation, I took a second job at
15 a local grocery store, moved into, like, an assistant
16 manager role in terms of customer service. It was --
17 customer service management was the role.

18 And then after some time, there just
19 seemed to be a [indiscernible] on the likelihood of a
20 successful career, you know, down in Florida, and at
21 the encouragement of my family, my parents, I moved
22 back to this area, where I was born and raised, in
23 Montgomery County. This would have been about '90 --
24 late '95 or early '96.

25 And then in not -- for about six months,

1 I did some temp work for McCallion Staffing, working
2 at Ford Electronics in Lansdale and ACTS -- a
3 retirement community -- executive offices in Lansdale
4 in procurement.

5 And -- but then I was able to land a
6 good job at Unisys Corporation, Unisys in Blue Bell.

7 THE COURT: And where -- what time
8 periods were you working there, at Unisys?

9 THE DEFENDANT: I'm sorry?

10 THE COURT: When -- when were you
11 working there?

12 THE DEFENDANT: Oh, well, from --

13 THE COURT: You -- you landed a job
14 there. For --

15 THE DEFENDANT: Right.

16 THE COURT: For how long?

17 THE DEFENDANT: 1996 -- just short of
18 ten years. They laid me off. So it was nine years
19 and -- and change.

20 THE COURT: So around -- from '96 to
21 2005?

22 THE DEFENDANT: Yes, sir. Yes, Your
23 Honor.

24 THE COURT: What were you doing? What
25 was your job description at Unisys?

1 THE DEFENDANT: I started out as, again,
2 a credit and collections analyst, handling, you know,
3 millions of dollars' worth of -- of receivables that
4 Unisys had on the books and, you know, reaching out
5 to our customers or clients and vendors and -- and,
6 you know, colleague corporations to -- to -- to try
7 to solicit the return of those funds.

8 I was very successful. Quarter in,
9 quarter out, earned every achievement bonus and --
10 you know, I never missed a target.

11 Whilst in that role over two years, I
12 guess I was recognized by a fellow -- or a manager in
13 another department and recruited into a small
14 organization to help facilitate a very large,
15 systematic software implementation and process change
16 at Unisys.

17 We were implementing Oracle applications
18 over some pre-existing databases. And it was a
19 multimillion dollar operation, many years in the
20 making, and I became part of the -- the -- the
21 rollout and transition team.

22 THE COURT: Is that while at Unisys?

23 THE DEFENDANT: While at Unisys, yes,
24 sir.

25 THE COURT: Okay.

1 THE DEFENDANT: This was about -- in my
2 third year there.

3 During the next year --

4 THE COURT: Following Unisys?

5 THE DEFENDANT: No, no. Do you want me
6 to elaborate further on Unisys?

7 THE COURT: Well, I -- I want you to
8 just sketch your resume a little bit.

9 THE DEFENDANT: Oh, okay.

10 THE COURT: I -- I know that you --
11 you're --

12 THE DEFENDANT: So ten years of
13 Unisys --

14 THE COURT: Hold on a minute. Let me --
15 we can't talk at the same time.

16 THE DEFENDANT: My apologies, Your
17 Honor.

18 THE COURT: I know that you're sketching
19 out what your responsibilities were, but if I
20 understand it correctly, you were working for Unisys
21 from '96 or thereabout to 2006, right?

22 THE DEFENDANT: Yes, sir. Yes, Your
23 Honor.

24 THE COURT: And you -- you -- it
25 appears, from your statement to the court, that you

1 had a -- a position of a lot of responsibility in --
2 in the management of some accounts within the
3 company. Right?

4 THE DEFENDANT: For the first two years,
5 yes, until I transitioned to a new role.

6 THE COURT: All right. Now, when you
7 left Unisys, from 2006, until the time you were
8 arrested in the case -- in this case, what kind of a
9 job or employment were you engaged in?

10 THE DEFENDANT: I went into consulting
11 for, basically, private practice, but then I was --
12 at least, that was my intent. I ended up getting
13 hired for some consulting companies as a W-2 -- as a
14 full-time employee, and I was placed at Merck Sharp &
15 Dohme for three years, also training, running
16 software implementations, and then, also, supporting
17 the same software systems that my -- my -- myself and
18 my team had implemented.

19 So -- and I was working with a staff,
20 had a staff, and then was the lead for a couple of
21 different applications at Merck Sharp & Dohme.

22 After three years, that contract
23 relationship came to an end. We had met all of
24 our -- our -- our target and goals, and so then I
25 sought another position.

1 And after some time -- at this point,
2 due to some -- some difficulty on my -- in my own
3 circumstance, it took me a little over a year to find
4 another position. But it was a good one, with --
5 Exelon, I think, came next.

6 THE COURT: What were you doing for
7 Exelon?

8 THE DEFENDANT: Similar work, sir. It
9 was a consulting analyst to help roll out new
10 softwares and processes as well as train hundreds of
11 their employees in these new processes and the
12 software to -- to -- to maintain those processes.

13 So I went in there, learned the software
14 package that they wanted to use sufficient that I
15 could teach it, and then we implemented this --
16 this -- this -- this package and attendant processes
17 to help improve their regulatory compliance, which
18 was -- had been discovered to be deficient by other
19 parties. And so that was our goal.

20 And it was in less than a year -- ten
21 months that I was there --

22 THE COURT: So that -- that, roughly,
23 brings me to 2010. From 2010 to the present, what
24 were you doing, just immediately before you were
25 arrested in this case?

1 THE DEFENDANT: Just immediately before
2 I was arrested in the state, I was actually working
3 at Best Buy in an hourly role, in an hourly retail
4 role.

5 THE COURT: For how long had you been at
6 Best Buy?

7 THE DEFENDANT: At the time of my
8 arrest, it would have been -- I would have just
9 triggered -- tripped six months, Your Honor.

10 THE COURT: Okay. So between the job at
11 Exelon and Best Buy, what type of other work were you
12 doing?

13 THE DEFENDANT: At that time, I was --
14 and -- and -- you know, had been in the throes of --
15 of severe depression and -- and bipolarity, and I
16 was -- you know, some of which had contributed to my,
17 you know, failure to renew or re-up my contract
18 with -- with Exelon. And -- so some despondency and,
19 also, some -- some energy issues.

20 I languished for maybe, again, another
21 year or more before finding a position with the
22 company -- one of my -- of -- a friend of mine owns a
23 number of companies. One of these is a campground in
24 the Poconos, and I -- I took on several months of
25 hourly work there to maintain some income and, you

1 know, to maintain my household and -- and what have
2 you.

3 At the end of their season, you know,
4 that work ended. That's just seasonal work,
5 actually, and -- and I wasn't working for -- again,
6 for several months and accruing debt.

7 But then, finally, you know, I -- I -- I
8 reached out to Best Buy, and they were eager and --
9 and willing to have me, and I --

10 THE COURT: Very well. I'm going to ask
11 you to move the microphone a little closer to you.

12 THE DEFENDANT: My apologies.

13 THE COURT: No, no need to apologize.
14 Just move it a little closer to you so that I can
15 hear you a little bit better.

16 All right. So we -- we sort of sketched
17 out your -- your employment history since 1993, so to
18 speak.

19 And fair to say that although you didn't
20 complete your Bachelor of Arts degree, you have some
21 college, and you were working as a consultant so --
22 for companies dealing with software and programs, and
23 you have people that -- you were part of a team, and
24 you have people that you led?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And gave instructions to,
2 right?

3 THE DEFENDANT: Yes. Leadership as well
4 as the training of my team and many of the employees
5 in the software that I supported was my primary
6 role -- were my primary roles.

7 THE COURT: Now -- and I gather your
8 main language is English. Right?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you speak any other
11 language?

12 THE DEFENDANT: I have some passable
13 colloquial capability in Spanish, but I wouldn't even
14 put it on a -- on a resume as -- as -- as --

15 THE COURT: But English is your main
16 language?

17 THE WITNESS: English is my main and,
18 really, only language.

19 THE COURT: And the language you use to
20 work with others and give instruction to other people
21 that work for you or with you, right?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Now, I need to know a little
24 bit about whether in your past you had any drug or
25 alcohol problems. Any drug or alcohol problems or

1 issues that you were dealing with or have been
2 dealing with?

3 THE DEFENDANT: I -- I've never had any
4 drug issues, Your Honor --

5 THE COURT: No -- no alcohol, no drugs,
6 nothing?

7 THE DEFENDANT: I -- I -- I -- I have
8 what I think were some alcohol issues, not so much in
9 the overuse or even abuse of -- of alcohol, Your
10 Honor, but I did find that in the last five to six
11 years, when my depression was at its, you know,
12 deepest -- when I drank, I realized, oftentimes too
13 late, that -- that it was exacerbating my condition,
14 and I -- I found myself, you know, in a -- in a -- an
15 evil spiral.

16 Now, these lasted only for the hours in
17 which I was socializing or drinking, and it was
18 entirely social in nature. It was never, you know,
19 solo drinking or anything like that.

20 But -- but I've noticed that alcohol
21 became a problem, and so it -- making a bad situation
22 worse. So I actually elected for -- for several
23 years, really, to stay away from it, because while I
24 didn't abuse it, I found that it made me -- well,
25 it -- it -- it was harmful to me.

1 THE COURT: Right.

2 THE DEFENDANT: And so I -- I just
3 started teetotaling, essentially.

4 THE COURT: So no drugs, but you were
5 abusing alcohol during the period of time --

6 THE DEFENDANT: No. I'd just offer, I
7 wasn't abusing alcohol. I, actually, rarely drank.
8 But I noticed that when I drank, my depression and --
9 and -- and -- and, you know, negative thoughts and --
10 and -- and despondency was crippling.

11 So, you know, after just, you know, a
12 few weekends and a few months of -- of noticing that
13 reality, I said, okay, well, I just won't drink.

14 THE COURT: So you stopped?

15 THE DEFENDANT: I -- I -- yeah. Yes,
16 sir. Yes, Your Honor.

17 THE COURT: On your own?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: You didn't have to go into
20 an inpatient program or outpatient program?

21 THE DEFENDANT: Oh, no, no, no, Your
22 Honor. I -- no. Very introspective, and -- and --
23 and I -- I recognized that while I don't have any
24 problem with use or abuse, I have a -- a weakness
25 because of, you know, again, my depression and other

1 conditions that -- it was -- and it would probably
2 continue to be a wrong decision to -- to partake.

3 THE COURT: All right. But never
4 been -- never saw a psychologist or psychiatrist and
5 got alcohol --

6 THE DEFENDANT: For that problem, no.

7 THE COURT: Okay.

8 THE DEFENDANT: I have in my history
9 seen psychologists and/or psychiatrists, yeah.

10 THE COURT: All right. We'll talk a
11 little bit about that.

12 Any prescription medication that you are
13 currently on?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: What are you currently on?

16 THE DEFENDANT: I'm on my Albuterol
17 inhaler for my asthma. I am --

18 THE COURT: Hold on a minute. Does that
19 impact your ability to understand me?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Okay. What else?

22 THE DEFENDANT: Two different
23 antidepression medications, one being Wellbutrin,
24 another -- or the other being trazodone, which, I
25 understand, chemically is very similar to Wellbutrin,

1 but it has an added side effect of -- of a mild
2 sedative nature, which is used traditionally across
3 the street to help people sleep.

4 THE COURT: All right. So the trazodone
5 is to help you sleep?

6 THE DEFENDANT: Yes, in addition to its
7 antidepressant --

8 THE COURT: All right. And -- and how
9 about the Wellbutrin?

10 THE DEFENDANT: Solely antidepressant.

11 THE COURT: Okay. And -- and -- and
12 could you tell me a little bit about -- what doses
13 are you taking of each?

14 THE DEFENDANT: Not with authority, Your
15 Honor. I mean, they're considered --

16 THE COURT: How often do you take, let's
17 say, the Wellbutrin?

18 THE WITNESS: Both daily, once --

19 THE COURT: How many times a day?

20 THE DEFENDANT: Just the once in the --
21 in the -- in the evening. And if -- if I were to
22 hazard a guess, I -- I'd say I'm on perhaps 75 to
23 100 milligrams of -- of both. I know that --

24 THE COURT: All right. And when you
25 take, let's say, the Wellbutrin, what does it do for

1 you?

2 THE DEFENDANT: It -- it helps to
3 mitigate to a degree a lot of feelings of despondency
4 or -- or uselessness, hopelessness, suicidal
5 thoughts and -- and -- and -- I guess the word is
6 ideations, I've come to learn from some of the
7 medical professionals. You know, that -- that --
8 that these are unconventional and unnatural thoughts.

9 And -- and -- and the -- the -- the
10 energy level, my inability to get out of bed for days
11 on end, which was a complication during my, you know,
12 work search between roles. I wasn't medicated at
13 that time and --

14 But -- but Wellbutrin and trazodone help
15 to mitigate that -- those energy level losses and --
16 and -- and that -- that general despondency to a
17 degree.

18 I'm not on what is considered an
19 aggressive dose, I'm given to understand, and that
20 may be, in part, due to the relatively new, you know,
21 period that we're in of medication.

22 I -- I -- I have been medicated in the
23 past, only mildly and only for a short period, as an
24 experimental effort by my doctor at the time.

25 THE COURT: All right. You've given me

1 a lot of information. I just want to kind of come
2 back a little bit to the Wellbutrin that you're
3 taking. Obviously, it's making you feel better.

4 THE DEFENDANT: Better, yes, Your Honor.

5 THE COURT: You're not having these bad
6 thoughts about -- suicidal ideation or anything along
7 those lines.

8 THE DEFENDANT: I am not without those
9 thoughts. You know, I mean, it is not a wholly
10 effective solution, no, Your Honor.

11 THE COURT: All right. But you're --
12 but taking the Wellbutrin is making you feel better?

13 THE DEFENDANT: Absolutely, yeah.

14 THE COURT: You know why you're here,
15 right?

16 THE DEFENDANT: Yeah. Yes, I do, Your
17 Honor.

18 THE COURT: And the trazodone, what --
19 what specifically are you taking that for?

20 THE DEFENDANT: Inasmuch as it's very
21 similar to Wellbutrin, it's more -- I'm taking it for
22 the -- the -- the mild sedative effect that it
23 purports to have, the -- to help sleep at night.

24 Wellbutrin and most antidepressants,
25 I'm -- I can understand, they evidently raise

1 people's energy level and can make it difficult to
2 sleep soundly through the night.

3 So I'm, just at the recommendation of
4 the medical professionals across the street, to do
5 both in concert to both feel better but then, also,
6 to sleep as equally well as -- as -- as I'm used to
7 and -- and prefer to.

8 THE COURT: You've been sleeping well
9 the last 24 hours?

10 THE DEFENDANT: Last night was actually
11 tricky, but you know -- but I would say, yes, that
12 I -- I sleep well.

13 THE COURT: And you feel rested?

14 THE DEFENDANT: Not sufficiently, but
15 I -- I -- I've -- I'm -- I'll be fine.

16 THE COURT: You indicated you've been
17 medicated before. You have had medicine --
18 medication before?

19 THE DEFENDANT: Yeah, I -- I --

20 THE COURT: Can you tell me a little bit
21 about that? How -- how far back were -- were you on
22 medication and for what, and what -- what were the
23 issues that you were having?

24 THE DEFENDANT: Please forgive if -- if
25 what I'm about to say falls within some gray areas of

1 the time frames that I'll reference, but I would say
2 somewhere between six to seven years ago, I sort of
3 had the -- the revelation to myself that -- that I
4 am, in fact, you know, clinically depressed, not
5 just -- not just despondent about, you know,
6 illnesses and deaths in my family and -- and -- and
7 friends that I've had some difficulty, that --

8 I realized that -- having seen enough
9 television and read a few books, that -- that I'm
10 actually symptomatic with, you know, clinical
11 depression and -- and -- and bipolarity.

12 And I mentioned this to my -- to two of
13 my friends, my good friends at the time --

14 THE COURT: All right. You're --
15 you're --

16 THE DEFENDANT: I went to see a
17 doctor --

18 THE COURT: You're kind of going off a
19 little bit on a tangent here and --

20 THE DEFENDANT: Sorry about that.

21 THE COURT: -- and rambling on a little
22 bit too much.

23 I want you to focus on -- you said six
24 to seven years ago that you were clinically
25 depressed. Were you under the care of a

1 psychologist, psychiatrist? Were you under
2 medication, or were you on -- on treatment, or this
3 is just something that you just decided, that you
4 were clinical -- clinically depressed?

5 THE DEFENDANT: Well, no. I -- I went
6 to my general practitioner, my doctor, and I said,
7 you know, I have --

8 THE COURT: Is he a psychologist --

9 THE DEFENDANT: He is not.

10 THE COURT: -- psychiatrist or --

11 THE DEFENDANT: He is not.

12 THE COURT: -- a counselor on -- on
13 mental illness?

14 THE DEFENDANT: No.

15 THE COURT: Okay. Did you see anyone
16 between --

17 THE DEFENDANT: No, no, I didn't. I --
18 I -- I asked for some recommendations from my doctor.
19 He gave me one or two. But he -- you know, he gave
20 me -- given his -- his -- his -- in his appraisal,
21 his assessment, that, you know, I was surely
22 symptomatic and that -- you know, he -- he
23 immediately prescribed on his own, I guess, authority
24 Wellbutrin as well as Adderall, which is to -- to
25 help create focus.

1 ADD is something else that, you know,
2 when we sat down and -- and talked about it at length
3 that he said, okay, I'm also symptomatic in that
4 regard, attention deficit disorder.

5 THE COURT: Who was this who told you
6 that you were symptomatic?

7 THE DEFENDANT: This was my doctor,
8 Christopher --

9 THE COURT: And is he -- what kind of
10 doctor is he?

11 THE DEFENDANT: He's a general
12 practitioner. He's a -- he's a D.O., doctor of
13 osteopathy in -- I guess it's Norristown.

14 THE COURT: Did he refer you to anybody
15 else to talk about, you know, your depression or
16 your -- your condition?

17 THE DEFENDANT: Not -- not directly, no.
18 I mean, he -- he -- at my behest, in asking for some
19 recommendations, he provided them, but, you know, he
20 didn't direct me to go anywhere, and -- and I didn't
21 reach out to them immediately.

22 THE COURT: They --

23 THE DEFENDANT: I spent about six months
24 on Wellbutrin, Adderall, and Testim, which is a
25 testosterone replacement therapy, because coincident

1 with my symptoms as described and -- and discovered
2 by him, we tested deeply --

3 THE COURT: Well, who is him?

4 THE DEFENDANT: My doctor.

5 THE COURT: Could you tell me his name?

6 THE DEFENDANT: Dr. Malsch, Christopher
7 Malsch.

8 THE COURT: All right.

9 THE DEFENDANT: He tested me, and
10 apparently, I have very close to zero free
11 testosterone in my system, very unusual for a person
12 of 38 or 39 at the time. He said it was --
13 statistically, I'm -- I'm beyond 75 years of age in
14 terms of my free testosterone.

15 And he said that -- that -- that this
16 alone can be a -- a biological reason for depression,
17 focus disorders, attention disorders, you know, lack
18 of -- of energy, lack of sex drive, lack of -- well,
19 you know, lack of positivity.

20 THE COURT: All right. I want to try to
21 pin this down.

22 THE DEFENDANT: Yeah.

23 THE COURT: This was six to seven years
24 ago?

25 THE DEFENDANT: Yes.

1 THE COURT: And for how long did you see
2 this doctor?

3 THE DEFENDANT: Oh, well, I saw him for
4 years, but we -- we did this medication for probably
5 six to nine months.

6 THE COURT: How long ago?

7 THE DEFENDANT: Six to seven years ago.

8 THE COURT: Okay. And that was the
9 extent and the scope of it?

10 THE DEFENDANT: At -- at that time,
11 yeah.

12 THE COURT: Any time since, have you
13 been on that type of -- have you seen the doctor or
14 psychologist, psychiatrist relating --

15 THE DEFENDANT: No. It -- it --

16 THE COURT: -- to any of these problems?

17 THE DEFENDANT: No, I didn't. In --

18 THE COURT: All right. You did not?

19 THE DEFENDANT: I did not.

20 THE COURT: You said something -- that
21 you were bipolar, but you have not been diagnosed
22 with being bipolar, right?

23 THE DEFENDANT: Different doctors at
24 Montgomery County Community -- Correctional Facility,
25 where I was before I came to the Federal Detention

1 Center, they said, yeah, it -- it appears that way.

2 And I'm -- there are words that they use
3 professionally that I didn't quite grasp or
4 understand, but that -- that was the --

5 THE COURT: Who is the "they"? Could
6 you tell me who?

7 THE DEFENDANT: Wow. There's the head
8 psychiatrist at MCCF, and his name escapes me. There
9 is the head psychologist at MCCF. I'm trying to
10 think what her name may be.

11 THE COURT: And -- and this is the first
12 time --

13 THE DEFENDANT: I can't say.

14 THE COURT: -- I gather, that you heard
15 about this -- this diagnosis of -- or heard about the
16 fact that you may be or are bipolar?

17 THE DEFENDANT: Yes, sir. Yes, Your
18 Honor.

19 THE COURT: Before that, you had never
20 heard it?

21 THE DEFENDANT: I had heard it, but I
22 had never associated [indiscernible] --

23 THE COURT: You had never been --

24 THE DEFENDANT: -- it with myself.

25 THE COURT: -- diagnosed --

1 THE DEFENDANT: No, not at all.

2 THE COURT: -- or treated or --

3 THE DEFENDANT: Hm-mmm, not for -- no.

4 THE COURT: -- seen for that type of
5 illness?

6 THE DEFENDANT: No.

7 THE COURT: Never been under the care of
8 a doctor --

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: -- for -- for bipolar?

11 THE DEFENDANT: No.

12 THE COURT: Never been hospitalized
13 anywhere for mental health issues dealing with
14 depression or bipolarity or anything along those
15 lines?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: So the first time, if I
18 understand you correctly, that you saw someone
19 regarding the fact that you felt you were clinically
20 depressed or depressed and you talked about
21 bipolarity and -- and things of that -- that nature
22 was six or seven years ago?

23 THE DEFENDANT: Right, with my general
24 practitioner. I reached out to him for guidance and
25 advice --

1 THE COURT: Right.

2 THE DEFENDANT: -- and help.

3 THE COURT: But you didn't see any --
4 any psychologist or psychiatrist that specializes in
5 treating mental illnesses?

6 THE DEFENDANT: That's correct, Your
7 Honor.

8 THE COURT: And never, either then or
9 before, have been treated for any mental illness or
10 seen a psychologist, psychiatrist or been
11 hospitalized for any mental illness, right?

12 THE DEFENDANT: Actually, I -- I did
13 see -- when it was -- whether it would be late grade
14 school or early high school, for several months, a
15 psychologist, I believe he was, because of a lot of
16 the symptoms, which, you know, when I was younger had
17 manifested themselves. But I don't think we dove
18 enough to understand --

19 THE COURT: Hold on.

20 THE DEFENDANT: So for -- months of just
21 weekly discussion therapy. The hope was that it
22 would affect my focus, my grades, my despondency,
23 in -- in -- in contrast to my energy and enthusiasm.
24 You know, this -- this -- it was my parents, frankly,
25 who -- who posited that the bipolarity is -- is there

1 and that they've -- they've seen the evidence for --
2 for decades.

3 But -- so I did see the psychologist
4 several months --

5 THE COURT: How old were you when you
6 saw a psychologist in high school? What year was
7 this?

8 THE DEFENDANT: I -- well, I can -- I
9 was driving there, so I would had to have been, sir,
10 between 16 and 18.

11 THE COURT: All right. You're 44 years
12 of age today?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: All right. But other than
15 that time that you saw a psychologist while you were
16 in high school, possibly a senior, the only other
17 time that you had anyone talk to you about it was
18 your general doctor about six, seven years ago?

19 THE DEFENDANT: Yeah. Yes, sir. Yes,
20 Your Honor.

21 THE COURT: And -- and -- and since that
22 time, while you've been in prison awaiting to go to
23 trial on these cases?

24 THE DEFENDANT: Yes.

25 THE COURT: All right.

1 THE DEFENDANT: Much better,
2 attentive -- well, I mean, more than -- more than I
3 ever had before care from -- from mental health
4 professionals.

5 THE COURT: And you are taking this
6 medication, Wellbutrin and trazodone. But is there
7 anything about what is going on here today that --
8 that you think impacts your ability to understand me?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: You know why you're here?

11 THE DEFENDANT: Yeah, I know why I'm --
12 yes, I do, Your Honor.

13 THE COURT: And -- and you have been
14 able to talk to your lawyer about the charges, the
15 government's case against you, and your options in
16 this case?

17 THE DEFENDANT: I have had opportunity
18 to do these things, yes, Your Honor.

19 THE COURT: All right. Now, with
20 regards to your -- your issues, physically, you are
21 feeling okay?

22 THE DEFENDANT: Yes. By and large, Your
23 Honor, I --

24 THE COURT: You look pretty good. You
25 look pretty healthy. Right?

1 THE DEFENDANT: I've lost weight in
2 jail.

3 THE COURT: Okay. How much weight did
4 you lose?

5 THE DEFENDANT: Between 10 and 15
6 pounds. Just in vacillation, it happens, but I would
7 say right now, it's ten pounds -- wait, wait, wait.

8 THE COURT: How -- how tall are you?

9 THE DEFENDANT: 5, 9 and a half.

10 THE COURT: And how much do you weigh?

11 THE DEFENDANT: Well, 195 at the -- at
12 the moment. So, actually, that would be 13 pounds at
13 the moment.

14 THE COURT: All right. That's not
15 impacting your ability to understand me, right?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: It's not impacting your
18 health in -- physical health in any way?

19 THE DEFENDANT: I don't believe so, Your
20 Honor, no.

21 THE COURT: In fact, I wish I could lose
22 13 pounds in -- in a couple of months.

23 THE DEFENDANT: It's a -- it's a --

24 THE COURT: It makes you feel better,
25 right?

1 THE DEFENDANT: It's a -- it's a
2 surprising fringe benefit of incarceration, Your
3 Honor.

4 THE COURT: Right. You've been in
5 trouble before with the law?

6 THE DEFENDANT: Never, Your Honor.

7 THE COURT: You are not on any type of
8 probation or parole or supervision anywhere?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: And we were talking a little
11 bit about the fact that you've had an opportunity to
12 talk to your lawyer about these serious charges.

13 THE DEFENDANT: I have had the
14 opportunity, yes, Your Honor.

15 THE COURT: Well, you talked to him
16 about the case, you know, the government's case --

17 THE DEFENDANT: Yeah, yeah.

18 THE COURT: -- the investigation, right?

19 THE DEFENDANT: Yeah. You know, I might
20 say that I -- I wish we had had more time.

21 Certainly, these are substantial and -- and -- and
22 profound and -- and -- and polarizing charges, and --
23 and I understand that, and -- but, you know, we have
24 discussed them. I can't say we haven't.

25 THE COURT: All right. You -- you have

1 reviewed -- or at least talked to your lawyer about
2 the government's case against you in terms of
3 physical evidence, testimonial evidence, electronic
4 evidence, wire evidence? You've talked to your
5 lawyer about that, right?

6 THE DEFENDANT: I have talked to my
7 lawyer, yes, my attorney, yes, I have, Your Honor.

8 And then as of a few weeks ago,
9 basically, they -- the day that I signed the plea
10 agreement, which was two days after I met you in our
11 last meeting, Your Honor, I guess for the pretrial
12 conference -- I think you had given us about eight
13 days to -- to decide on a plea.

14 But that was on a Friday. On the
15 following Monday, I was given to understand by my
16 attorney that the U.S. Attorney needed a more prompt
17 decision. So on that Monday, I was directed to --
18 to -- to sign the plea.

19 THE COURT: You -- you feel you've been
20 pressured in any way, shape, or form to plead guilty?

21 THE DEFENDANT: I do feel I've been
22 pressured.

23 THE COURT: Well, you know -- you know,
24 you don't have to plead guilty. You know that,
25 right?

1 THE DEFENDANT: Well, yes, I do.

2 THE COURT: All right. Do you want to
3 go to trial?

4 THE DEFENDANT: No, I don't.

5 THE COURT: All right. Because if you
6 have any reservations about -- whatsoever about
7 whether you want to plead guilty to this case or not,
8 any reservation, we -- I have a panel downstairs.
9 I'm ready to bring the panel up. We could pick a
10 jury.

11 THE DEFENDANT: I understand that, Your
12 Honor.

13 THE COURT: Have you thought long and
14 hard about -- about your options in this case?

15 THE DEFENDANT: I have, Your Honor.

16 THE COURT: Do you want a trial?

17 THE DEFENDANT: I -- I -- I have felt at
18 times that that was the -- the -- a preferable option
19 and -- and -- and that, more than anything, preserves
20 my rights to -- to cross-examine and -- and review
21 additional evidence that I'm convinced I haven't yet
22 seen and -- and --

23 However, I was raised and -- and
24 continue to live a life of, you know, profound
25 culpability and -- and -- and -- and -- and --

1 THE COURT: Well --

2 THE DEFENDANT: -- onerous, you know,
3 acceptance of responsibility, and -- and -- and I --
4 I feel as though -- even though this -- this plea
5 agreement troubles me and -- and -- and giving up my
6 rights troubles me, I feel as though, look, I -- I
7 need to take responsibility for what I can, and if --
8 and if there's some -- some -- some overage there,
9 that may be part of my just desserts. I don't know.

10 But I -- I feel as though -- I have
11 never not been in compliance and/or generous with my
12 support for this -- this case. I -- I gave a full
13 and -- and complete testimony -- statements when I
14 was arrested, offered --

15 THE COURT: You've gone on and on about
16 all that stuff, but what I want to know is -- I want
17 you to understand you don't have to plead guilty.
18 I'd be happy to have a trial in this case.

19 And you will have the opportunity to
20 preserve all of your trial rights, challenge the
21 government's evidence, challenge the government's
22 witnesses, because, believe me, cross-examination is
23 a powerful tool to expose people who may be biased,
24 prejudiced, or may be lying against you, anything
25 like that. You have that opportunity, and I'm pretty

1 sure counsel is prepared to proceed, because we had
2 that conversation a while back.

3 So, you know, I don't want you to think
4 that -- that -- that -- that you don't -- you know,
5 you have a right to trial, and I'll be happy to give
6 a trial. Is that what you want?

7 THE DEFENDANT: I don't think so at this
8 time, even --

9 THE COURT: Well, let me tell you
10 something. This is the time, because there's not
11 going to be another time. This is the time.

12 If you have any reservations, this is
13 the time to have them, because I don't have to take
14 your guilty plea, and the government will be ready to
15 proceed, pick a jury, and you could challenge all of
16 the evidence and all of the witnesses. So there's
17 not going to be another time. Do you understand
18 that?

19 THE DEFENDANT: I do, Your Honor.

20 THE COURT: Because once you plead
21 guilty to the charges, it's going to be really,
22 really difficult for you to withdraw your guilty
23 plea. Do you understand that?

24 THE DEFENDANT: Yes, I do, Your Honor.

25 THE COURT: And, later on, it's going to

1 be exceedingly difficult for you to tell me, Judge,
2 I'm sorry; the lawyer forced me to do this, or I felt
3 threatened, or I felt, you know, like, coerced into
4 pleading guilty; I didn't want to plead guilty; I
5 wanted to go to trial. Do you understand that?

6 THE DEFENDANT: Yes, I do, Your Honor.

7 THE COURT: All right. So this is
8 really important, because you're giving up your
9 fundamental right to a true jury trial and to force
10 the government to prove their case beyond a
11 reasonable doubt.

12 And if I look at the -- the -- the
13 document that you have in front of you, you're
14 looking at potentially -- potentially --

15 THE DEFENDANT: Life, Your Honor.

16 THE COURT: -- 30 -- yeah, you're
17 looking at serious time. So -- so -- so if you want
18 a jury trial, I'll be happy to. Quite frankly, I'd
19 be comfortable to give you a jury trial. You
20 understand that?

21 THE DEFENDANT: I do, Your Honor.

22 THE COURT: Do you want me to stop these
23 proceedings right now, talk to the government and
24 talk to your lawyer and -- and get a jury here so
25 that we could begin selection sometime this week or

1 next week?

2 THE DEFENDANT: As -- as -- as late as
3 very late last night, I -- I thought that was
4 something that I -- I should cling to, my rights,
5 and -- and -- knowing that a portion, if not a good
6 portion, is certainly challengeable and even winnable
7 in court, Your Honor.

8 However, when it comes back to the
9 person that I am, that I've been, and -- and that my
10 parents -- and we all agree, as of this morning, that
11 I'd rather over-accept responsibility than to shirk
12 it or -- or try to avoid culpability and -- and --
13 and so --

14 THE COURT: Mr. Krapf --

15 THE DEFENDANT: I'm -- I'm -- I'm --

16 THE COURT: -- all I'm talking to you
17 about --

18 THE DEFENDANT: -- comfortable to go
19 forward with the plea, Your Honor.

20 THE COURT: Do you -- do you understand
21 you're going to potentially -- let's look at -- at --
22 at the potential penalties that you are facing. Do
23 you understand --

24 I want you to take a look at the three
25 documents that you have.

1 THE DEFENDANT: Yeah.

2 THE COURT: You see page 3 of the
3 guilty -- of the guilty plea agreement? Page 3 of
4 the guilty plea agreement and page 2 of the guilty --
5 of the government's change of plea? Do you see those
6 two documents?

7 THE DEFENDANT: I -- I have the guilty
8 plea agreement in front of me.

9 THE COURT: All right. Take a look at
10 the guilty plea agreement, page 3.

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And take a look at the
13 government's change of plea, page 3 and 4. Do you
14 have that?

15 THE DEFENDANT: I --

16 MR. ISENBERG: We're working on that,
17 Judge.

18 Yeah, we have it, Judge.

19 THE DEFENDANT: Thank you.

20 THE COURT: You and I understand you --
21 you -- this is a pretty serious case?

22 THE DEFENDANT: Yes, I do, Your Honor.

23 THE COURT: All right. And you told me
24 that you've never been in trouble before, right?

25 THE DEFENDANT: That's correct, Your

1 Honor.

2 THE COURT: So you're looking at life
3 imprisonment, 15-year mandatory minimum term of
4 imprisonment, a mandatory five years of supervised
5 release up to a lifetime of supervised release, \$6
6 million fine, \$2,400 special assessment.

7 And then, over and above that, you are
8 going to have to be registering -- registering as a
9 sex offender for probably the rest of your life. You
10 understand that?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: So the consequences of your
13 decision here today are pretty, pretty serious in
14 terms of your future, because you may not come out of
15 jail in the foreseeable future. You understand that?

16 THE DEFENDANT: I do understand that.

17 THE COURT: So you tell me today that --
18 you are telling me today that last night you were
19 thinking about clinging to your -- to your
20 constitutional rights, right?

21 THE DEFENDANT: I had those thoughts,
22 yes, sir, I did, Your Honor.

23 THE COURT: I want you to understand
24 that I have the utmost respect for you if you
25 decided -- decide to exercise your constitutional

1 rights, because every citizen has those rights, and
2 it doesn't offend me a bit if you want to exercise
3 those rights and have a jury trial, because that's
4 what we're here for. Do you understand that?

5 THE DEFENDANT: I absolutely do, and
6 I -- and I appreciate your -- your reassertion of
7 that respect and -- and honoring of -- of those
8 rights and privileges, Your Honor.

9 THE COURT: So -- so that's what I'm
10 here for, to try the case. And I don't have a
11 problem and the government doesn't have a problem to
12 give you a -- a -- a trial by jury, where you'll have
13 an opportunity, through your lawyer, to challenge
14 every witness the government calls, to challenge
15 every piece of evidence the government seeks to
16 introduce in your case, and to have that jury decide
17 whether or not you're guilty of these charges. You
18 have that right.

19 THE DEFENDANT: Yes, I understand,
20 but -- but on the strength of my attorney's
21 recommendations and -- and my -- my -- my family's --
22 my family's, you know, input, I feel as though --

23 THE COURT: Mr. Krapf, it's your
24 decision --

25 THE DEFENDANT: Correct.

1 THE COURT: -- not your lawyer's --

2 THE DEFENDANT: Absolutely.

3 THE COURT: -- not your family's. It's
4 your decision and your decision alone whether to go
5 to trial or not, whether to plead guilty or not. Do
6 you understand that?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: All right. I -- because
9 your -- your lawyer could give you all the advice in
10 the world, but if you want a trial, you have the
11 right to trial. And that's what I'm here for, and
12 I'll be happy to give you --

13 And -- and you knew that this case was
14 listed for trial today, we were going to be picking a
15 jury today, right?

16 THE DEFENDANT: Well, I -- I wasn't sure
17 how it would go once I signed the plea two weeks ago,
18 but -- but, yeah, I knew that this was forthcoming.

19 THE COURT: Well, I -- I was very clear
20 with you two weeks ago. I told you the trial date is
21 today --

22 THE DEFENDANT: Absolutely.

23 THE COURT: -- or guilty plea or
24 anything else.

25 THE DEFENDANT: Um-hmm.

1 THE COURT: So -- but if you don't want
2 to plead guilty, all you have to do is tell me so --
3 and we will pick a jury. I will -- I -- I -- we have
4 people. Wednesday, we'll get a panel here, and we'll
5 pick a jury. This case is not going to be long, from
6 what I understand.

7 THE DEFENDANT: Probably not, Your
8 Honor.

9 THE COURT: Right. I -- I want you to
10 think about it. I'm going to give you 15 minutes to
11 think about it, because I don't have a problem --
12 because you're being -- you've been hesitating quite
13 a bit, and -- and some of your answers are a little
14 bit unresponsive to my questions.

15 So I know that you're uncomfortable with
16 pleading guilty, and I want you to think about it and
17 talk to your lawyer. Because I could stop these
18 proceedings right now and bring you back probably
19 Wednesday -- I'll talk to the lawyers -- or next
20 week, and we'll have a jury. All right?

21 THE DEFENDANT: I'll take the time
22 you've granted, and I appreciate that. Thank you
23 very much, Your Honor.

24 THE COURT: Very well. Okay. I'm going
25 to clear the courtroom and give them 15 minutes so

1 that they could talk privately.

2 MR. ISENBERG: Do you want me to report
3 back to Mr. Kelly, Judge, when we're ready?

4 THE COURT: Just report back to
5 Mr. Kelly. That's fine.

6 MR. ISENBERG: I'll do that, Judge.
7 Thank you.

8 COURTROOM DEPUTY: All rise.

9 - - -

10 (Whereupon, a recess was had between
11 11:54 a.m. and 12:20 p.m.)

12 - - -

13 THE COURT: . . . thought long and hard
14 about whether I'm going to proceed today to take your
15 guilty plea. I think it's incumbent upon this court
16 to stop the proceedings, give you overnight to think
17 about your options.

18 As you well know, you and you alone have
19 an absolute right to decide whether to go to trial or
20 not, whether to plead guilty or not, whether to give
21 up your -- your -- your right to a jury trial and go
22 nonjury. Those are your rights, and in that area,
23 nobody can infringe upon your right to make the
24 decision on your own. Do you understand that?

25 THE DEFENDANT: I do, Your Honor.

1 THE COURT: Nobody can force you,
2 threaten you in any way, shape, or form, or promise
3 you anything. The decision is yours and yours alone.

4 So if your lawyer is telling you one
5 thing, but you want to go to trial, your parents are
6 telling you one thing, but you want to go to trial,
7 guess what? You have an absolute right to go to
8 trial. You understand that?

9 THE DEFENDANT: I absolutely do, Your
10 Honor.

11 THE COURT: All right. And this
12 court -- as I said before -- I'm going to repeat
13 it -- I -- this is what we do. We try cases. I
14 don't have a problem respecting your right to
15 exercise your constitutionally protected right to a
16 jury trial, because that's what we're all about. You
17 understand?

18 THE DEFENDANT: Absolutely.

19 THE COURT: And I had a panel waiting.
20 We canceled the panel, but we have a panel Wednesday.
21 I'm going to bring a panel Wednesday.

22 I'm going to give you overnight to think
23 about it. I'm going to bring you back tomorrow
24 afternoon at three o'clock, and we'll continue the
25 discussion we had on the record today.

1 But -- but if you want a trial,
2 ultimately, you have a right to trial, and we'll pick
3 a jury on Wednesday. Okay?

4 THE DEFENDANT: Well, if you please,
5 Your Honor, I -- I'm prepared to -- to plead
6 guilty --

7 THE COURT: Well --

8 THE DEFENDANT: -- you know, with --
9 with absolute certainty and clarity of -- of purpose
10 and -- and intent.

11 THE COURT: Right. Well, tell you what.
12 Based on my discussion with you -- with you earlier,
13 I -- I have some reservations because of your
14 statements to the court, and I think it's incumbent
15 upon me to give you a little bit of time to think
16 about it further.

17 If you still feel that way tomorrow,
18 then I will take your guilty plea tomorrow at three
19 o'clock. So there's no harm in me continuing the
20 case for one more day to give you that opportunity,
21 because I wasn't too sure -- I'm not so sure, based
22 on the record that I have, that that's really what
23 you want, to plead guilty.

24 And you could cling onto your
25 constitutional rights. You have a constitutional

1 right. You have a right to challenge the
2 government's case, the government's witnesses through
3 cross-examination. And the government is prepared to
4 come back on tomorrow or come back on Wednesday and
5 pick a jury.

6 But the stakes are high for you --

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: -- and I want to make sure
9 that you are absolutely certain that that's what you
10 want to do, because, quite frankly, I -- I think I
11 talked to you a little bit about the guilty plea and
12 these charges. Your guidelines are potentially off
13 the charts in this case. You understand that, right?

14 THE DEFENDANT: I do, Your Honor. Yeah,
15 they are staggering.

16 THE COURT: All right. So one way or
17 the other, eventually -- you know, sometimes some
18 cases have to be tried. Maybe this is one of them.
19 All right?

20 So I'll bring you back tomorrow at three
21 o'clock. We'll continue the discussion. Ultimately,
22 I will have a panel here Wednesday if you want to go
23 to trial.

24 THE DEFENDANT: I'll be here for you
25 tomorrow, and we'll have finality and -- and a plea

1 tomorrow.

2 THE COURT: All right. Well, think
3 about it.

4 Okay. He's excused.

5 Pat.

6 COURTROOM DEPUTY: All rise.

7 - - -

8 (Whereupon, the proceeding was adjourned
9 at 12:24 p.m.)

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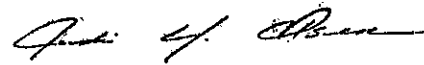
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C E R T I F I C A T I O N

I, Judi Y. Olsen, do hereby certify that the foregoing is a true and correct transcript from the electronic sound recordings of the proceedings in the above-captioned matter.



Date

Judi Y. Olsen

A	agreement 5:14 41:10 43:5 47:3,4 47:8,10	assistant 3:5 13:15	better 20:15 27:3,4 27:12 28:5 38:1 39:24	49:10,16 50:13 51:5 54:20 55:2 55:13
abetting 4:8	aiding 4:8	associated 34:22	beyond 32:13 45:10	cases 37:23 53:13 55:18
ability 24:19 38:8 39:15	Albuterol 24:16	asthma 24:17	biased 43:23	Center 1:14 34:1
able 11:8 14:5 38:14	alcohol 21:25,25 22:5,8,9,20 23:5 23:7 24:5	attend 10:13	biological 32:16	certain 55:9
above-captioned 57:6	allow 7:7	attendant 18:16	bipolar 33:21,22 34:16 35:10	certainly 40:21 46:6
absolute 52:19 53:7 54:9	America 1:2 3:3	attention 31:4 32:17	bipolarity 19:15 29:11 35:14,21 36:25	certainty 54:9
absolutely 7:21 27:13 49:5 50:2 50:22 53:9,18 55:9	analyst 15:2 18:9	attentive 38:2	bit 9:7 10:13 12:6 16:8 20:15 21:24 24:11 25:12 27:2 28:20 29:19,22 40:11 49:2 51:13 51:14 54:15 55:11	certify 57:4
abuse 22:9,24 23:24	and/or 11:14 24:9 43:11	attorney 3:6,9 5:6 5:24 8:7 41:7,16 41:16	born 13:22	challenge 43:20,21 44:15 49:13,14 55:1
abusing 23:5,7	answer 7:19 8:7	attorney's 1:10 49:20	bonus 15:9	challengeable 46:6
acceptance 43:3	answers 51:13	AUSA 1:10	books 15:4 29:9	change 5:13 6:1 14:19 15:15 47:5 47:13
accounts 17:2	antidepressant 25:7,10	authority 25:14 30:23	bordering 11:11	changed 11:14
accruing 20:6	antidepressants 27:24	avail 11:8	boys 5:5	charged 4:11
achieve 11:16	antidepression 24:23	avoid 46:12	bring 42:9 51:18 53:21,23 55:20	charges 7:10,11,16 38:14 40:12,22 44:21 49:17 55:12
achievement 15:9	anybody 31:14	awaiting 37:22	brings 18:23	charging 4:22
Acknowledge 6:2	apologies 16:16 20:12	a.m 1:6 52:11	Buy 19:3,6,11 20:8	charts 55:13
acknowledgement 5:14	apologize 20:13	B	B.A 9:13 11:3,20	chemically 24:25
ACTS 14:2	apparent 32:10	B 2:10		Chestnut 1:11
ADD 31:1	APPEARANCES 1:9	Bachelor 20:20		child 4:7,7,15,17
added 25:1	appears 16:25 34:1	bachelor's 9:10 10:23 11:21		Christopher 31:8 32:6
Adderall 30:24 31:24	applications 15:17 17:21	back 4:4 9:21 13:22 27:2 28:21 44:2 46:8 51:18 52:3,4 53:23 55:4 55:4,20		circumstance 18:3
addition 25:6	appraisal 30:20	background 8:13 8:18		citizen 49:1
additional 42:21	appreciate 8:10 49:6 51:22	bad 22:21 27:5		clarity 54:9
adjourned 56:8	area 13:22 52:22	based 54:12,21		classes 9:25
advice 35:25 50:9	areas 28:25	basically 17:11 41:9		clear 50:19 51:25
affect 36:22	arising 5:4	basis 7:23		clients 15:5
afternoon 53:24	arrest 19:8	bed 26:10		cling 46:4 54:24
age 9:4 32:13 37:12	arrested 17:8 18:25 19:2 43:14	began 12:14,20		clinging 48:19
agent 3:10,11	Arts 10:23 11:21 20:20	behest 31:18		clinical 29:10 30:4 30:4 35:19
aggressive 26:19	asked 30:18	believe 5:12 36:15 39:19 43:22		close 32:10
ago 10:3 11:1,5,10 29:2,24 32:24 33:6,7 35:22 37:18 41:8 50:17 50:20	asking 31:18	Bell 14:6		closer 20:11,14
agree 46:10	assessment 30:21 48:6	benefit 40:2		coerced 45:3
		Best 19:3,6,11 20:8		coincident 31:25
			C	
			C 57:1,1	
			calls 49:14	
			campground 19:23	
			canceled 53:20	
			capability 21:13	
			care 29:25 35:7 38:3	
			career 9:17 12:20 13:20	
			case 17:8,8 18:25 38:15,16 40:16 40:16 41:2 42:7 42:14 43:12,18 45:10 47:21	

colleague 15:6	17:13 18:9	20:10,13 21:1,7	cross-examine	19:13 20:12,25
collections 15:2	contact 11:24 12:1	21:10,15,19,23	42:20	21:3,9,12,22 22:3
college 12:10 20:21	continue 24:2	22:5 23:1,4,14,17	culpability 42:25	22:7 23:2,6,15,18
colloquial 21:13	42:24 53:24	23:19 24:3,7,10	46:12	23:21 24:6,8,14
COLLOQUY 2:3	55:21	24:15,18,21 25:4	cumbersome 11:7	24:16,20,22 25:6
come 10:10 26:6	continuing 54:19	25:8,11,16,19,24	currently 24:13,15	25:10,14,20 26:2
27:1 48:14 55:4,4	contract 17:22	26:25 27:5,11,14	curriculum 11:14	27:4,8,13,16,20
comes 46:8	19:17	27:18 28:8,13,16	customer 13:16,17	28:10,14,19,24
comfortable 45:19	contrast 36:23	28:20 29:14,18	customers 15:5	29:16,20 30:5,9
46:18	contributed 19:16	29:21 30:8,10,12		30:11,14,17 31:7
commerce 4:12	conversation 6:3	30:15 31:5,9,14	D	31:11,17,23 32:4
community 14:3	44:2	31:22 32:3,5,8,20	D 2:1	32:6,9,22,25 33:3
33:24	convinced 42:21	32:23 33:1,6,8,12	daily 25:18	33:7,10,15,17,19
companies 17:13	copy 5:21,25	33:16,18,20 34:5	databases 15:18	33:23 34:7,13,17
19:23 20:22	Corporation 14:6	34:11,14,19,23	date 50:20 57:14	34:21,24 35:1,3,6
company 1:23 17:3	corporations 15:6	34:25 35:2,4,7,10	day 25:19 41:9	35:9,11,16,23
19:22	correct 36:6 47:25	35:12,17 36:1,3,8	54:20	36:2,6,12,20 37:8
competent 7:9	49:25 57:5	36:19 37:5,11,14	days 9:22 26:10	37:13,19,24 38:1
complete 11:3 12:5	Correctional 33:24	37:21,25 38:5,10	41:10,13	38:9,11,17,22
20:20 43:13	correctly 4:4 5:6	38:13,19,24 39:3	dealing 20:22 22:1	39:1,5,9,11,16,19
completed 10:17	16:20 35:18	39:8,10,14,17,21	22:2 35:13	39:23 40:1,6,9,13
completely 7:20	counsel 3:15 44:1	39:24 40:4,7,10	deaths 29:6	40:17,19 41:6,21
compliance 18:17	counselor 30:12	40:15,18,25	debt 20:6	42:1,4,11,15,17
43:11	count 4:17 5:2	41:19,23 42:2,5	decades 9:19 37:2	43:2 44:7,19,24
complication	counts 4:6,11,15	42:13,16 43:1,15	decide 41:13 48:25	45:6,15,21 46:2
26:11	4:22,22,24 5:1	44:9,20,25 45:7	49:16 52:19	46:15,18 47:1,7
concert 28:5	7:8	45:16,22 46:7,14	decided 30:3 48:25	47:11,15,19,22
conclude 7:3 9:15	County 13:23	46:16,20 47:2,9	decision 7:14 24:2	47:25 48:11,16
10:6	33:24	47:12,20,23 48:2	41:17 48:13	48:21 49:5,19,25
condition 22:13	couple 17:20 39:22	48:12,17,23 49:9	49:24 50:4,4	50:2,7,16,22,25
31:16	course 10:8 11:7	49:23 50:1,3,8,19	52:24 53:3	51:7,21 52:25
conditions 24:1	court 1:1,8,23 3:2	50:23 51:1,9,24	deepest 22:12	53:9,18 54:4,8
conduct 4:13	3:5,8,13,14,18,20	52:4,13,15 53:1	deeply 32:2	55:7,14,24
conference 41:12	3:25 5:9,11,16,20	53:11,12,19 54:7	defendant 1:6,13	defendant's 5:4
connection 11:2	5:23 6:8,10 7:1,6	54:11,14 55:8,16	3:22,23 4:5,21	defense 3:14
consequences	7:18,22 8:2,6,12	56:2	5:25 6:18,23 7:5	deficient 18:18
48:12	8:18,23 9:1,4,6	courtroom 6:15,20	7:17,21 8:1,5,10	deficit 31:4
considered 25:15	9:12,23 10:7,9,12	6:25 51:25 52:8	8:17,21,25 9:2,5	degree 9:10 10:6
26:18	10:16,22,25	56:6	9:9,14,24 10:8,10	10:23 11:17
constitutional	11:18,21 12:1,4	create 30:25	10:15,19,24 11:4	20:20 26:3,17
48:20,25 54:25	12:22 13:2,5,9	credit 10:20 15:2	11:19,25 12:3,9	department 15:13
54:25	14:7,10,13,16,20	credits 9:10	12:24 13:3,7,11	depressed 29:4,25
constitutionally	14:24 15:22,25	Criminal 3:3	14:9,12,15,17,22	30:4 35:20,20
53:15	16:4,7,10,14,18	crippling 23:10	15:1,23 16:1,5,9	depression 19:15
consultant 20:21	16:24,25 17:6	cross-examination	16:12,16,22 17:4	22:11 23:8,25
consulting 17:10	18:6,22 19:5,10	43:22 55:3	17:10 18:8 19:1,7	29:11 31:15

32:16 35:14 deputy 6:11,15,20 6:25 52:8 56:6 described 32:1 description 2:11 14:25 despondency 19:18 23:10 26:3 26:16 36:22 despondent 29:5 desserts 43:9 Detention 33:25 diagnosed 33:21 34:25 diagnosis 34:15 different 17:21 24:22 33:23 difficult 28:1 44:22 45:1 difficulty 18:2 29:7 direct 31:20 directed 41:17 directly 31:17 discovered 18:18 32:1 discuss 8:15 discussed 40:24 discussion 36:21 53:25 54:12 55:21 Disney 12:11,23 disorder 31:4 disorders 32:17,17 distribution 4:15 DISTRICT 1:1,1,8 doctor 26:24 29:17 30:6,18 31:7,10 31:12 32:4 33:2 33:13 35:8 37:18 doctors 33:23 document 45:13 documents 8:15 46:25 47:6 Dohme 17:15,21 doing 6:4 13:10 14:24 18:6,24	19:12 dollar 15:19 dollars 15:3 Donald 6:23 dose 26:19 doses 25:12 doubt 45:11 dove 36:17 downstairs 42:8 downturn 13:11 Dr 32:6 drank 22:12 23:7,8 drink 23:13 drinking 22:17,19 drive 32:18 driving 37:9 drug 21:24,25 22:4 drugs 22:5 23:4 due 18:2 26:20 D.O 31:12 <hr/> E <hr/> E 2:1,10 57:1 eager 20:8 earlier 54:12 early 13:24 36:14 earned 15:9 EASTERN 1:1 economy 13:12 effect 25:1 27:22 effective 27:10 effort 26:24 eight 41:12 either 36:8 elaborate 16:6 elected 22:22 electronic 1:20 41:3 57:5 Electronics 14:2 elements 7:11 Emily 3:10 employee 12:13,14 17:14 employees 18:11 21:4 employment 12:12	17:9 20:17 encouragement 13:21 ended 17:12 20:4 energy 19:19 26:10 26:15 28:1 32:18 36:23 engage 4:13 engaged 17:9 English 21:8,15,17 enthusiasm 36:23 entice 4:12 entirely 22:18 entree 12:12 equally 28:6 equivalent 11:16 era 10:1 escapes 34:8 ESQUIRE 1:13 ESR 1:17 essentially 23:3 Evans 3:10,11 evening 25:21 eventually 55:17 everybody 4:1 evidence 7:15 37:1 41:3,3,4,4 42:21 43:21 44:16 49:15 evidently 27:25 evil 22:15 evolved 11:14 exacerbating 22:13 exactly 11:16 exceedingly 45:1 excused 56:4 executive 14:3 Exelon 18:5,7 19:11,18 exercise 48:25 49:2 53:15 experimental 26:24 exploitation 5:4 expose 43:23	extent 33:9 <hr/> F <hr/> F 6:24 8:19 57:1 facilitate 15:14 facility 4:12 33:24 facing 46:22 fact 29:4 34:16 35:19 39:21 40:11 faculty 11:13 failure 19:17 fair 20:19 falls 28:25 false 7:24 family 13:21 29:6 family's 49:21,22 50:3 far 9:7 10:17 28:21 Fast-forward 11:1 Federal 33:25 feel 27:3,12 28:5 28:13 39:24 41:19,21 43:4,6 43:10 49:22 54:17 feeling 38:21 feelings 26:3 fellow 15:12 felt 35:19 42:17 45:2,3 finality 55:25 finally 20:7 find 8:13 18:3 22:10 finding 19:21 fine 28:15 48:6 52:5 first 12:25 17:4 34:11 35:17 five 5:4 22:10 48:4 Florida 9:18 13:20 focus 29:23 30:25 32:17 36:22 followed 9:20 following 12:7	16:4 41:15 force 45:9 53:1 forced 45:2 Ford 14:2 foregoing 57:4 foreseeable 48:15 forgive 28:24 form 7:23 41:20 53:2 forthcoming 50:18 forward 11:15 46:19 found 11:6 22:14 22:24 four 12:17 frames 29:1 Frank 6:24 frankly 36:24 45:18 55:10 free 32:10,14 freeze 13:12 Friday 41:14 friend 19:22 friends 29:7,13,13 fringe 40:2 front 4:1 5:16,22 6:7 45:13 47:8 fruition 10:11 full 6:21 8:19 43:12 full-time 17:14 fundamental 45:9 funds 15:7 further 16:6 54:16 future 48:14,15 <hr/> G <hr/> gather 21:7 34:14 geez 10:2 general 26:16 30:6 31:11 35:23 37:18 generous 43:11 getting 17:12 give 5:24 6:6 8:8 21:20 44:5 45:19
--	---	---	---	--

49:12 50:9,12
 51:10,25 52:16
 52:20 53:22
 54:15,20
given 26:19,25
 30:20 41:12,15
giving 43:5 45:8
go 9:7 23:19 31:20
 37:22 42:3 45:5
 46:18 50:4,17
 52:19,21 53:5,6,7
 55:22
goal 18:19
goals 17:24
going 4:2 6:2,10,11
 7:2 20:10 29:18
 38:7 44:11,17,21
 44:25 46:21 48:8
 50:14 51:5,10,24
 52:14 53:12,21
 53:22,23
good 3:7,8,11,13
 3:19,23 14:6 18:4
 29:13 38:24 46:5
government 7:15
 8:16 44:14 45:10
 45:23 49:11,14
 49:15 55:3
government's 5:13
 6:1 38:15 40:16
 41:2 43:21,21
 47:5,13 55:2,2
grade 36:13
grades 36:22
granted 51:22
grasp 34:3
gray 28:25
grocery 13:15
guess 12:17 15:12
 25:22 26:5 30:23
 31:13 41:11 53:7
guidance 35:24
guidelines 55:12
guides 12:19,19
guilty 1:7 4:21
 5:13,25 7:7,14

8:13 41:20,24
 42:7 43:17 44:14
 44:21,22 45:4,4
 47:3,3,4,4,7,10
 49:17 50:5,23
 51:2,16 52:15,20
 54:6,18,23 55:11

H

H 2:10
half 13:7 39:9
hand 6:16
handling 15:2
happens 39:6
happy 43:18 44:5
 45:18 50:12
hard 42:14 52:13
harm 54:19
harmful 22:25
hazard 25:22
head 34:7,9
health 35:13 38:3
 39:18,18
healthy 38:25
hear 20:15
heard 34:14,15,20
 34:21
HEARING 1:7
help 15:14 18:9,17
 25:3,5 26:14
 27:23 30:25 36:2
helps 26:2
hesitating 51:12
high 36:14 37:6,16
 55:6
hired 17:13
hiring 13:12
history 20:17 24:8
Hm-mmm 35:3
Hold 16:14 24:18
 36:19
Honor 3:7,12,16
 3:24 5:8,10 7:5
 7:17,21 8:1,5,11
 8:17,22 9:22
 14:23 16:17,23

19:9 20:25 21:9
 21:22 22:4,10
 23:16,18,22
 24:14,20 25:15
 27:4,10,17 34:18
 35:9,16 36:7
 37:20 38:9,12,18
 38:23 39:16,20
 40:3,6,9,14 41:7
 41:11 42:12,15
 44:19,24 45:6,15
 45:21 46:7,19
 47:11,22 48:1,11
 48:22 49:8 50:7
 51:8,23 52:25
 53:10 54:5 55:7
 55:14

HONORABLE

1:7
honoring 49:7
hope 36:21
hopelessness 26:4
hospitalized 35:12
 36:11
hourly 12:14,19
 19:3,3,25
hours 10:20 22:16
 28:9
household 20:1
human 11:20,21
hundreds 18:10

I

ID 2:11
ideation 27:6
ideations 26:6
illness 30:13 35:5
 36:9,11
illnesses 29:6 36:5
images 4:7
immediately 18:24
 19:1 30:23 31:21
impact 24:19
impacting 39:15
 39:17
impacts 38:8

implementation
 15:15
implementations
 17:16
implemented
 17:18 18:15
implementing
 15:17
important 45:8
imprisonment
 48:3,4
improve 18:17
inability 26:10
Inasmuch 27:20
incarceration 40:2
includes 3:25
income 19:25
incumbent 52:15
 54:14
independent 7:14
indicated 12:5
 28:16
indicted 4:6
indictment 4:21
 7:7,8
indiscernible
 13:19 34:22
inducing 4:6
information 8:14
 27:1
infringe 52:23
inhaler 24:17
Initially 11:25
initiated 11:6
inpatient 23:20
input 49:22
instruction 21:20
instructions 21:1
intends 4:21
intent 12:14 17:12
 54:10
intern 12:10,12
Internet 10:5
interstate 4:12
introduce 49:16
introspective

23:22
investigation 40:18
Isenberg 1:13,14
 3:15,16,19,21
 5:10,15,18,21 6:5
 6:9 8:8 47:16
 52:2,6
issues 19:19 22:1,4
 22:8 28:23 35:13
 38:20

J

jail 39:2 48:15
January 4:5
job 9:17 12:9 13:14
 14:6,13,25 17:9
 19:10
jobs 12:19
JUAN 1:7
Judge 1:8 5:15,18
 5:19 6:5,9 45:1
 47:17,18 52:3,6
Judi 1:18 57:3,14
jury 42:10 44:15
 45:9,18,19,24
 49:3,12,16 50:15
 51:3,5,20 52:21
 53:16 54:3 55:5

K

Kelly 1:17 6:12
 52:3,5
kind 12:7 17:8
 27:1 29:18 31:9
knew 50:13,18
know 7:4,22 8:3,8
 9:7 11:12 12:12
 13:20 15:2,4,6,10
 16:10,18 19:14
 19:16,17 20:1,3,7
 21:23 22:11,14
 22:18 23:9,11,11
 23:25 25:23 26:7
 26:11,20 27:9,14
 28:11 29:4,5,10
 30:7,19,21,22

31:1,15,19 32:17
32:19 36:16,24
38:10,11 40:16
40:19,23 41:23
41:23,24 42:24
43:2,9,16 44:3,4
45:3 49:22 51:15
52:18 54:8 55:17
knowing 46:5
Krapf 1:5 3:3,22
4:3,5 6:7,11,14
6:24 7:2 8:19,19
46:14 49:23
K-r-a-p 6:24

L

lack 32:17,18,18
32:19
laid 14:18
land 14:5
landed 14:13
language 21:8,11
21:16,18,19
languished 19:20
Lansdale 14:2,3
large 15:14 38:22
lasted 22:16
lastly 5:2
late 13:24 22:13
36:13 46:2,3
law 1:14 40:5
lawyer 8:16 38:14
40:12 41:1,5,7
45:2,24 49:13
50:9 51:17 53:4
lawyers 51:19
lawyer's 50:1
lead 17:20
Leadership 21:3
learn 26:6
learned 18:13
leaving 12:7
led 20:24
left 17:7
legal 8:19
length 31:2

let's 10:12,12
25:16,25 46:21
level 26:10,15 28:1
lie 7:22
lies 7:23
life 42:24 45:15
48:2,9
lifetime 48:5
likelihood 13:19
lines 27:7 35:15
listed 50:14
little 4:2 9:7 10:13
12:6 16:8 18:3
20:11,14,15
21:23 24:11
25:12 27:2 28:20
29:19,21 40:10
51:13 54:15
55:11

live 42:24
local 13:15
long 13:5 14:16
19:5 33:1,6 42:13
51:5 52:13
longstanding
12:20
look 38:24,25 43:6
45:12 46:21,24
47:9,12
looking 45:14,17
48:2

lose 39:4,21
losses 26:15
lost 9:16,20 11:23
39:1
lot 17:1 26:3 27:1
36:15
lying 43:24

M

main 21:8,15,17
maintain 18:12
19:25 20:1
making 15:20
22:21 27:3,12
Malsch 32:6,7

management
11:20,22 12:15
13:13,13,17 17:2
manager 13:16
15:12
mandatory 48:3,4
manifested 36:17
marked 2:10,12
Market 1:24
Martin 1:13,14
3:15
materials 9:20
matter 3:2 57:7
Matthew 1:5 3:3
4:5 6:23 8:19
maximum 7:12
McCallion 14:1
MCCF 34:8,9
mean 25:15 27:9
31:18 38:2
means 10:5
medical 26:7 28:4
medicated 26:12
26:22 28:17
medication 24:12
26:21 28:18,22
30:2 33:4 38:6
medications 24:23
medicine 28:17
meeting 41:11
memorandum 6:1
mental 30:13
35:13 36:5,9,11
38:3
mentioned 29:12
Merck 17:14,21
met 17:23 41:10
Michelle 1:10 3:6
michelle.rotella...
1:12
microphone 20:11
MID-ATLANTIC
1:23
mild 25:1 27:22
mildly 26:23
milligrams 25:23

million 48:6
millions 15:3
mine 19:22
minimum 48:3
minor 4:13 5:5
minute 16:14
24:18
minutes 7:3 51:10
51:25
misenbergesq@...
1:16
missed 15:10
mitigate 26:3,15
moment 39:12,13
Monday 41:15,17
Montgomery
13:23 33:24
months 13:25
18:21 19:9,24
20:6 23:12 31:23
33:5 36:14,20
37:4 39:22
morning 3:7,8,11
3:13,17,19,23
46:10
move 9:21 11:15
20:11,14
moved 9:17 13:15
13:21
multimillion 15:19

N

N 2:1 57:1
name 6:21,21 8:19
32:5 34:8,10
names 8:24
NATIONAL 1:23
nature 7:10 22:18
25:2 35:21
need 7:8,13 8:7,13
20:13 21:23 43:7
needed 10:22
41:16
needs 4:1
negative 23:9
never 9:12,12

15:10 22:3,18
24:3,4 34:19,22
34:23 35:7,12
36:8 40:6 43:11
47:24
new 9:21 17:5 18:9
18:11 26:20
Nice 3:16,18,20
night 27:23 28:2
28:10 46:3 48:18
nine 14:18 33:5
nonjury 52:22
Norristown 31:13
notebooks 9:16
noticed 22:20 23:8
noticing 23:12
November 57:14
number 2:11 3:4
7:9,9 12:18 19:23

O

O 57:1
obligation 7:19
Obviously 27:3
October 1:5
offend 49:2
offender 48:9
offense 7:12
offer 23:6
offered 43:14
OFFICE 1:10,14
offices 14:3
oftentimes 22:12
oh 5:18 10:2 14:12
16:9 23:21 33:3
okay 6:8 8:16 10:7
13:2 15:25 16:9
19:10 23:13 24:7
24:21 25:11
30:15 31:3 33:8
38:21 39:3 51:24
54:3 56:4
old 9:1 37:5
Olsen 1:18 57:3,14
once 25:18,20
44:20 50:17

onerous 43:2
 operation 15:19
OPERATOR 1:17
opportunity 8:9
 11:8 38:17 40:11
 40:14 43:19,25
 49:13 54:20
option 42:18
options 38:15
 42:14 52:17
Oracle 15:17
organization 15:14
original 5:19,25
Orlando 12:11
osteopathy 31:13
outpatient 23:20
overage 43:8
overnight 52:16
 53:22
overuse 22:9
over-accept 46:11
owns 19:22
o'clock 53:24
 54:19 55:21

P

PA 1:3,11,15,24
package 18:14,16
page 2:2 47:2,3,4
 47:10,13
panel 42:8,9 51:4
 53:19,20,20,21
 55:22
parents 13:21
 36:24 46:10 53:5
parole 40:8
part 15:20 20:23
 26:20 43:9
partake 24:2
parties 18:19
passable 21:12
Pat 56:5
Patrick 1:17 6:12
penalties 7:12
 46:22
pending 7:10

Penn 1:14
PENNSYLVAN...
 1:1
people 20:23,24
 21:20 25:3 43:23
 51:4
people's 28:1
period 23:5 26:21
 26:23
periods 14:8
perjury 7:24
person 32:11 46:9
Peter 6:24
Philadelphia 1:3
 1:11,15,24
physical 39:18
 41:3
physically 38:20
pick 42:9 44:15
 51:3,5 54:2 55:5
picking 50:14
piece 49:15
pin 10:12 32:21
place 12:25
placed 17:14
Plaintiff 1:3,10
Plaza 1:14
plea 1:7 5:13,14,25
 6:1 8:13 41:9,13
 41:18 43:4 44:14
 44:23 46:19 47:3
 47:4,5,8,10,13
 50:17,23 52:15
 54:18 55:11,25
plead 4:21 7:7,14
 41:20,24 42:7
 43:17 44:20 45:4
 50:5 51:2 52:20
 54:5,23
pleading 45:4
 51:16
please 6:15,20,22
 28:24 54:4
Poconos 19:24
point 8:2 11:5 18:1
polarizing 40:22

pornography 4:7
 4:16,18
portion 46:5,6
posited 36:25
position 17:1,25
 18:4 19:21
positivity 32:19
possession 4:17
possible 11:7
possibly 37:16
potential 46:22
potentially 45:14
 45:14 46:21
 55:12
pounds 39:6,7,12
 39:22
powerful 43:23
practice 17:11
practitioner 30:6
 31:12 35:24
prefer 28:7
preferable 42:18
prejudiced 43:24
prepared 44:1
 54:5 55:3
prescribed 30:23
prescription 24:12
present 18:23
presented 8:16
preserve 43:20
preserves 42:19
pressured 41:20
 41:22
pretrial 41:11
pretty 38:24,25
 43:25 47:21
 48:13,13
pre-existing 15:18
pre-Internet 9:22
primary 21:5,6
prison 37:22
private 17:11
privately 52:1
privileges 49:8
probably 11:16
 24:1 33:4 48:9

51:7,18
probation 40:8
problem 22:21
 23:24 24:6 49:11
 49:11 51:11
 53:14
problems 21:25,25
 33:16
proceed 44:1,15
 52:14
proceeding 7:3
 56:8
proceedings 1:20
 10:4 45:23 51:18
 52:16 57:6
process 15:15
processes 18:10,11
 18:12,16
procurement 14:4
produce 4:7
produced 1:21
Professional 57:3
professionally
 34:3
professionals 26:7
 28:4 38:4
profound 40:22
 42:24
program 12:16
 13:13 23:20,20
programs 20:22
promise 53:2
prompt 41:16
prosecution 7:24
protected 53:15
prove 45:10
provided 31:19
psychiatrist 24:4
 30:1,10 33:14
 34:8 36:4,10
psychiatrists 24:9
psychologist 24:4
 30:1,8 33:14 34:9
 36:4,10,15 37:3,6
 37:15
psychologists 24:9

purports 27:23
purpose 54:9
put 21:14
p.m 52:11 56:9

Q

quarter 15:8,9
question 8:7
questions 6:13
 7:20 8:3 51:14
quite 34:3 45:18
 51:12 55:10

R

R 1:7 57:1
raise 6:15 27:25
raised 13:22 42:23
rambling 29:21
rarely 23:7
reach 10:3 11:11
 31:21
reached 20:8 35:24
reaching 15:4
read 29:9
ready 42:9 44:14
 52:3
reality 23:13
realized 22:12 29:8
really 21:18 22:23
 44:21,22 45:8
 54:22
reason 32:16
reasonable 45:11
reassertion 49:6
receivables 15:3
recess 52:10
recognized 15:12
 23:23
recognizes 3:5,14
recommendation
 28:3
recommendations
 30:18 31:19
 49:21
record 6:3,6,21
 53:25 54:22

recorded 1:20	reviewed 41:1	S 2:10	Sharp 17:14,21	48:6
recording 1:20	re-up 19:17	salaried 13:13	shirk 46:11	specializes 36:4
recordings 57:6	right 5:11,17,20	salary 12:15	short 14:17 26:23	specifically 27:19
recruited 15:13	6:16 7:1 8:20	SANCHEZ 1:7	sic 4:9,10	spell 6:21
refer 31:14	9:23 11:18,22	sat 31:2	side 25:1	spelled 6:24
reference 29:1	12:2,3 14:15	satisfied 7:8,13	sign 41:18	spent 31:23
regard 31:4	16:21 17:3,6	saw 24:4 33:3	signed 41:9 50:17	spiral 22:15
regarding 35:19	20:16 21:2,8,21	35:18 37:6,15	similar 18:8 24:25	staff 17:19,20
regards 38:20	23:1 24:3,10 25:4	school 9:8 12:2,7	27:21	Staffing 14:1
REGION 1:23	25:8,24 26:25	36:14,14 37:6,16	sir 8:21 14:22	staggering 55:15
Registered 57:3	27:11,15 29:14	scope 33:9	15:24 16:22 18:8	stagnation 13:14
registering 48:8,8	32:8,20 33:18,22	search 26:12	23:16 34:17 37:9	stakes 55:6
regulatory 18:17	35:23 36:1,11	season 20:3	37:19 48:22	started 12:10 15:1
relating 33:14	37:11,14,25	seasonal 20:4	situation 22:21	23:3
relationship 17:23	38:19,25 39:7,14	seated 3:9 7:2	six 13:25 19:9	state 6:20 19:2
relatively 26:20	39:15,25 40:4,18	second 13:14	22:10 29:2,23	statement 16:25
release 48:5,5	40:25 41:5,25	Section 4:9,9,10,14	31:23 32:23 33:5	statements 7:24
renew 19:17	42:2,5 44:5 45:7	4:16,18,23,24,25	33:7 35:22 37:18	43:13 54:14
repeat 53:12	45:9,23 47:9,23	5:2,3	sketch 16:8	States 1:1,2,8 3:3,6
rephrase 8:4	47:24 48:20	sedative 25:2	sketched 20:16	statistically 32:13
replacement 31:25	49:18 50:8,11,15	27:22	sketching 16:18	stay 22:23
report 52:2,4	51:9,18,20 52:19	see 3:16,20 29:16	sleep 25:3,5 27:23	stop 45:22 51:17
Reporter 57:4	52:21,23 53:7,11	30:15 33:1 36:3	28:2,6,12	52:16
REPORTING	53:14,15 54:2,11	36:13 37:3 47:2,5	sleeping 28:8	stopped 23:14
1:23	55:1,1,13,16,19	seeks 49:15	small 15:13	store 13:15
reservation 42:8	56:2	seen 24:9 29:8	snafus 9:15	street 1:11,24 25:3
reservations 42:6	rights 5:14 6:2	33:13 35:4 36:10	social 22:18	28:4
44:12 54:13	42:20 43:6,20	37:1 42:22	socializing 22:17	strength 49:20
resource 11:20,22	46:4 48:20 49:1,1	selection 45:25	software 15:15	studies 12:5
respect 48:24 49:7	49:3,8 52:22	semester 10:22	17:16,17 18:12	study 10:8
respecting 53:14	54:25	semesters 10:17	18:13 20:22 21:5	stuff 43:16
responsibilities	rise 52:8 56:6	semester's 10:21	softwares 18:10	substantial 40:21
16:19	risk 13:14	senior 37:16	Solely 25:10	successful 13:20
responsibility 17:1	role 13:16,17 15:11	serious 40:12	solicit 15:7	15:8
43:3,7 46:11	17:5 19:3,4 21:6	45:17 47:21	solo 22:19	sufficient 18:14
rest 48:9	roles 21:6 26:12	48:13	solution 27:10	sufficiently 28:14
rested 28:13	roll 18:9	service 1:21 13:16	sorry 4:14 14:9	suicidal 26:4 27:6
resume 10:6 16:8	rollout 15:21	13:17	29:20 45:2	Suite 1:11,14,24
21:14	Rotella 1:10 3:6,7	seven 29:2,24	sort 20:16 29:2	supervised 48:4,5
resumed 12:9	3:9 5:7,8,19,24	32:23 33:7 35:22	sought 17:25	supervision 40:8
retail 19:3	6:6	37:18	sound 1:20 57:5	support 7:15 43:12
retaken 9:25	roughly 18:22	severe 19:15	soundly 28:2	supported 21:5
retirement 14:3	RPR 1:18 57:14	sex 32:18 48:9	Spanish 21:13	supporting 17:16
return 15:7	running 17:15	sexual 4:13 5:4	speak 8:7 9:3	sure 6:3 44:1 50:16
revelation 29:3		shape 7:23 41:20	20:18 21:10	54:21,21 55:8
review 6:7 42:20		53:2	special 3:10,11	surely 30:21
	S			

surprising 40:2
swear 6:12
sworn 6:11,18 7:18
symptomatic
 29:10 30:22 31:3
 31:6
symptoms 32:1
 36:16
Syracuse 9:11,13
 10:4,14
system 32:11
systematic 15:15
systems 17:17

T

T 2:10 57:1,1
take 8:12 9:17
 25:16,25 43:7
 44:13 46:24 47:9
 47:12 51:21
 52:14 54:18
talk 16:15 24:10
 31:15 37:17
 38:14 40:12
 45:23,24 51:17
 51:19 52:1
talked 31:2 35:20
 40:15 41:1,4,6
 55:11
talking 40:10
 46:16
tall 39:8
tangent 29:19
target 15:10 17:24
teach 18:15
teaching 12:21
team 15:21 17:18
 20:23 21:4
technical 10:5
teenage 5:5
teetotaling 23:3
television 29:9
tell 9:6 12:6 25:12
 28:20 32:5 34:6
 44:9 45:1 48:17
 51:2 54:11

telling 48:18 53:4,6
temp 14:1
ten 4:6,11,22 11:5
 14:18 16:12
 18:20 39:7
term 48:3
terms 13:16 32:14
 41:2 48:14
tested 32:2,9
Testim 31:24
testimonial 41:3
testimony 43:13
testosterone 31:25
 32:11,14
Thank 5:15 6:9,25
 47:19 51:22 52:7
thanks 10:5
therapy 31:25
 36:21
thereabout 16:21
thing 53:5,6
things 9:16 35:21
 38:18
think 3:25 5:18
 10:19 18:5 22:8
 34:10 36:17 38:8
 41:12 44:3,7
 51:10,11,16
 52:15,16 53:22
 54:14,15 55:10
 56:2
thinking 48:19
third 16:2
thought 42:13 46:3
 52:13
thoughts 23:9 26:5
 26:8 27:6,9 48:21
threaten 53:2
threatened 45:3
three 4:15 8:15
 10:2,3,3 11:1,11
 12:17,18 17:15
 17:22 46:24
 53:24 54:18
 55:20
throes 19:14

time 8:2,6 11:9
 13:10,18 14:7
 16:15 17:7 18:1
 19:7,13 23:5
 26:13,24 29:1,13
 32:12 33:10,12
 34:12 35:17
 37:15,17,22
 40:20 44:8,10,11
 44:11,13,17
 45:17 51:21
 54:15
times 25:19 42:18
Title 4:8,10,14,16
 4:18,23,25 5:1,3
today 6:4 9:1,2
 11:1 37:12 38:7
 48:13,17,18
 50:14,15,21
 52:14 53:25
told 31:5 47:23
 50:20
tomorrow 53:23
 54:17,18 55:4,20
 55:25 56:1
tool 43:23
tour 12:19,19
traditionally 25:2
train 18:10
trained 13:3
trainer 13:1,3,6
trainers 12:20
training 12:21
 17:15 21:4
TRANSCRIBER
 1:18
transcript 1:7,21
 57:5
transcription 1:21
transition 15:21
transitioned 17:5
trazodone 24:24
 25:4 26:14 27:18
 38:6
treated 35:2 36:9
treating 36:5

treatment 30:2
trial 37:23 42:3,16
 43:18,20 44:5,6
 45:5,9,18,19 49:3
 49:12 50:5,10,11
 50:14,20 52:19
 52:21 53:5,6,8,16
 54:1,2 55:23
tricky 28:11
tried 11:2 55:18
triggered 19:9
tripped 19:9
trouble 40:5 47:24
troubles 43:5,6
true 45:9 57:5
truthfully 7:20
try 8:4 10:4 11:2
 15:6 32:20 46:12
 49:10 53:13
trying 34:9
two 1:14 7:9 10:3
 11:10 13:7 15:11
 17:4 24:22 29:12
 30:19 41:10 47:6
 50:17,20
type 19:11 33:13
 35:4 40:7

U

ultimately 54:2
 55:21
Um-hmm 50:25
uncomfortable
 51:15
unconventional
 26:8
understand 4:4 5:6
 7:6,10,11,16,19
 7:25 8:3 11:12
 16:20 24:19,25
 26:19 27:25 34:4
 35:18 36:18 38:8
 39:15 40:23
 41:15 42:11
 43:17 44:17,23
 45:5,20 46:20,23

47:20 48:10,15
 48:16,23 49:4,19
 50:6 51:6 52:24
 53:8,17 55:13
understanding
 4:20
understands 6:4
Unisys 14:6,6,8,25
 15:4,16,22,23
 16:4,6,13,20 17:7
United 1:1,2,8 3:2
 3:6
university 9:11,13
 10:14 11:2
unnatural 26:8
unresponsive
 51:14
unusual 32:11
use 4:12 18:14
 21:19 23:24 34:2
uselessness 26:4
utmost 48:24
U.S 1:10 41:16

V

vacillation 39:6
vendors 15:5
VERITEXT 1:23
versus 3:3
violation 4:8,13,16
 4:18,23,25 5:1,3
VIP 12:19
vs 1:4

W

wait 39:7,7,7
waiting 53:19
Walt 12:10,22
want 16:5,7 27:1
 29:23 32:20 42:2
 42:7,16 43:16,16
 44:3,6 45:4,17,22
 46:24 48:23 49:2
 50:10 51:1,9,16
 52:2 53:5,6 54:1
 54:23 55:8,10,22

wanted 18:14 45:5
wasn't 11:8 20:5
 23:7 26:12 50:16
 54:21
way 7:23 8:18 9:9
 12:15 34:1 39:18
 41:20 53:2 54:17
 55:16
ways 11:15
weakness 23:24
Wednesday 51:4
 51:19 53:20,21
 54:3 55:4,22
week 45:25 46:1
 51:20
weekends 23:12
weekly 36:21
weeks 41:8 50:17
 50:20
weigh 39:10
weight 39:1,3
Wellbutrin 24:23
 24:25 25:9,17,25
 26:14 27:2,12,21
 27:24 30:24
 31:24 38:6
went 9:9 12:6,13
 17:10 18:13
 29:16 30:5
we'll 24:10 51:4,4
 51:20 53:24 54:2
 55:21,25
we're 26:21 47:16
 49:4 52:3 53:16
whatsoever 42:6
Whilst 15:11
wholly 27:9
willing 20:9
winnable 46:6
wire 41:4
wish 39:21 40:20
withdraw 44:22
witness 21:17
 25:18 49:14
witnesses 43:22
 44:16 55:2

word 26:5
words 34:2
work 9:15 10:21
 12:6,8 13:6 14:1
 18:8 19:11,25
 20:4,4 21:20,21
 26:12
working 12:15,18
 14:1,8,11 16:20
 17:19 19:2 20:5
 20:21 47:16
world 12:11 50:10
worse 22:22
worth 10:21 15:3
wouldn't 21:13
Wow 34:7
wrong 24:2
W-2 17:13

X

X 2:1,10

Y

Y 1:18 57:3,14
yeah 11:4 12:3
 13:1 23:15 24:9
 27:13,16 28:19
 32:22 33:11 34:1
 37:19 38:11
 40:17,17,19
 45:16 47:1,18
 50:18 55:14
year 13:7 16:2,3
 18:3,20 19:21
 37:6
years 9:4,19 10:3
 11:1,5,10 12:17
 12:18 13:8 14:18
 14:18 15:11,19
 16:12 17:4,15,22
 22:11,23 29:2,24
 32:13,23 33:4,7
 35:22 37:11,18
 48:4
York 9:21
younger 36:16

Z

zero 32:10

\$

\$2,400 48:6
\$6 48:5

1

1 4:22
10 4:22 39:5
100 25:23
1040 1:14
11 4:24 10:19
11:05 1:6
11:54 52:11
12:20 52:11
12:24 56:9
1250 1:11
13 39:12,22
14-469 3:4
15 39:5 51:10,25
15-year 48:3
16 37:10
18 4:8,14,16,18,23
 4:25 5:1,3 37:10
1800 1:24
1801 1:24
19102 1:15
19103 1:24
19106 1:11
195 39:11
1993 10:15,16,16
 20:17
1996 14:17

2

2 4:10,10,24 47:4
2:14-cr-00036-J...
 1:2
20 4:25
2005 14:21
2006 16:21 17:7
2010 18:23,23
2014 1:5 4:5 57:14
21 5:1
215 1:12,15

22 4:14
22(b) 4:14
2251(a) 4:23
2251(a)(1) 4:9
2251(e) 4:9,24
2252(a)(2) 4:17 5:2
2252(a)(4)(B) 4:19
 5:3
23 4:5 5:1
24 5:2 28:9
24(a) 4:14
2422(b) 4:25
27 1:5

3

3 2:3 47:2,3,10,13
30 45:16
38 32:12
39 32:12

4

4 47:13
40 7:2,2
44 9:2,3,4 37:11

5

5 39:9 57:14
574-2010 1:15

6

615 1:11

7

75 25:22 32:13
777-6690 1:25

8

861-8471 1:12
888 1:25

9

9 39:9
90 13:23
93 10:25 11:23
 12:4
95 13:24
96 13:24 14:20

16:21